

Exhibit C

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
2 CASE NO. 1:21-CV-07100-AKH

-----X

3 GEORGE STEINMETZ,

4 Plaintiff,

5 vs.

6 SHUTTERSTOCK, INC. and

DOES 1-10, inclusive,

7 Defendants.

8 -----X

9
10
11 30(b)(6) DEPOSITION VIA ZOOM OF
12 SHUTTERSTOCK, INC. by and through
13 ARTUR ZAMBROWSKI
14 July 14, 2022
15
16
17
18
19
20
21
22

23 Reported by:

24 SARA FREUND, CSR
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

July 14, 2022

10:00 a.m.

30(b)(6) DEPOSITION VIA ZOOM OF
ARTUR ZAMBROWSKI, held on the above mentioned
date and time, before Sara Freund, a
Certified Shorthand Reporter and Notary
Public within and for the State of New York.

A P P E A R A N C E S:

DONIGER/BURROUGHS LAW FIRM

Attorneys for Plaintiff

247 Water Street - first floor

New York, New York 10038

BY: SCOTT A. BURROUGHS, ESQ.

LAURA M. ZAHARIA, ESQ.

MITCHELL SILBERBERG & KNUPP LLP

Attorneys for Defendant

437 Madison Avenue - 25th floor

New York, New York 10022

BY: ELEANOR M. LACKMAN, ESQ.

SAMANTHA W. FRANKEL, ESQ.

ALSO PRESENT:

Andrew Raff - inhouse counsel, Shutterstock

1 A. ZAMBROWSKI

2 Q. Go ahead.

3 A. I do not know exactly.

4 Q. Do you recall anything about any of
5 the conversations that you may have had at
6 that time?

7 A. I do not remember.

8 Q. Do you recall doing anything else in
9 response to the demand letter?

10 MS. LACKMAN: Objection, foundation.

11 A. I do not remember.

12 Q. Do you know if the image is still on
13 Shutterstock's website today?

14 A. It is not on Shutterstock's website
15 today.

16 Q. How do you know?

17 A. Because I took action and suspended
18 the content after the review with my team
19 about the documentation provided.

20 Q. To your knowledge, does, quote,
21 suspending the content delete the content
22 from the Shutterstock system?

23 MS. LACKMAN: Objection to the
24 extent misstates prior testimony.

25 A. To the best of my knowledge, it is

Page 58

1 A. ZAMBROWSKI

2 removed from any public facing, but it's kept
3 internally, so if anyone else tries to upload
4 that similar piece of content, we can flag it
5 instantly and reject that content from ever
6 being on Shutterstock. Also, we have an
7 obligation to a contributor's TOS where the
8 content remains on our servers for a short
9 period of time.

10 Q. So is it fair to say that the
11 photograph alleged to be infringed in this
12 case is still on the Shutterstock system even
13 today?

14 MS. LACKMAN: Objection, vague as to
15 system.

16 A. Personally, I don't believe so, to
17 the best of my knowledge.

18 Q. Is it Shutterstock's position that
19 its partners have also removed the photograph
20 that's claimed to be infringed in this case?

21 MS. LACKMAN: Objection, no
22 foundation.

23 A. What partners?

24 Q. Any of the partner sites that we
25 referenced earlier.

1 A. ZAMBROWSKI

2 A. Yes. That's exactly what I just
3 said.

4 Q. How long have you been using that at
5 Shutterstock?

6 A. Personally, I've seen it in use my
7 whole time at Shutterstock.

8 Q. And if it returns a match on this
9 pixel comparison, what will Shutterstock do
10 in regards to the contributor?

11 MS. LACKMAN: Objection, outside the
12 scope, vague.

13 A. If there are matches that appear
14 that aren't within the same contributor up-
15 loading, we would reject that piece of
16 content, and if they are a repeat offender of
17 this type of action, we'll disable their
18 content and send them information of why
19 their account is disabled.

20 Q. How many infringing photographs does
21 a contributor have to upload before they are
22 deemed a repeat offender by Shutterstock?

23 MS. LACKMAN: Objection, misstates
24 the testimony, no foundation.

25 Q. Go ahead.

1 A. ZAMBROWSKI

2 A. It varies, between one and three.

3 Q. So is it fair to say that if a
4 contributor uploaded three infringing
5 photographs, they would be deemed a repeat
6 offender?

7 MS. LACKMAN: Objection, no
8 foundation, calls for a legal
9 interpretation.

10 Q. Go ahead.

11 A. Correct. We would review that
12 portfolio and determine to terminate the user
13 or not.

14 Q. And what would you look at to
15 determine whether or not to terminate the
16 user?

17 MS. LACKMAN: Objection to the
18 extent this calls for any understanding
19 that you have from counsel.

20 Q. Go ahead.

21 A. We would review what type of
22 contributor they are. We have business units
23 that upload content that are authorized by
24 other individuals to store and upload their
25 content. We also have aggregators who do

Page 64

1 A. ZAMBROWSKI

2 similar work. So we would have to make sure
3 that these individuals are aware of what
4 they're doing.

5 Q. What about for individuals?

6 MS. LACKMAN: Objection, vague.

7 A. For individuals, we would most
8 likely terminate them.

9 Q. Is there any reason why you wouldn't
10 terminate a contributor who uploaded three or
11 more infringing images?

12 MS. LACKMAN: Objection, calls for
13 speculation, calls for a legal
14 conclusion.

15 A. Other than the reasons I previously
16 mentioned, no.

17 Q. And is it the position of
18 Shutterstock that they will terminate the
19 user upon that number of infringing uploads
20 or that they'll suspend the user's account?

21 MS. LACKMAN: Objection, compound,
22 calls for a legal interpretation,
23 misstates testimony.

24 Q. Go ahead.

25 A. I'm not sure what you mean by

Page 65

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A. ZAMBROWSKI

tell me how long it generally maintains that
copy?

MS. LACKMAN: Objection, vague, no
foundation.

A. It keeps a copy in its storage
potentially for -- I don't know how long a
period of time, but we use that in order to
flag any individual trying to re-upload that
piece of content.

Q. So is it fair to say that there is
no set amount of time that Shutterstock will
maintain its copy of an allegedly infringing
work?

MS. LACKMAN: Objection, misstates
the testimony.

A. I do not know.

Q. And you used the term deep storage.
What do you mean by that?

A. I mean by that that's just the
terminology of where our content is stored
where it's much more difficult to access even
internally.

Q. How do you distinguish between
storage and deep storage?

1 A. ZAMBROWSKI

2 load.

3 Q. And is it Shutterstock that inputs
4 that metadata after the user's metadata is
5 removed?

6 MS. LACKMAN: Objection, vague,
7 misstates testimony.

8 A. No. As I mentioned, this is
9 contributors adding their own metadata.

10 Q. And after the contributor metadata
11 is removed, is additional metadata added
12 before the image goes live on Shutterstock?

13 MS. LACKMAN: Objection, misstates
14 the testimony.

15 A. As I mentioned, it's the contributor
16 who adds the metadata and that metadata would
17 be live on the website if approved.

18 Q. As far as you know, Shutterstock
19 never added its own metadata to a photograph
20 on its website, correct?

21 A. To the best of my knowledge, yes.

22 Q. When you or when Shutterstock is
23 looking for, quote, unquote, compliance
24 restrictions in connection with metadata,
25 what is it doing?

1 A. ZAMBROWSKI

2 MS. LACKMAN: Objection, misstates
3 the testimony, no foundation.

4 A. Could you define compliance?

5 Q. I'm trying to find out what
6 Shutterstock means by that. If you look at
7 the second bullet point, quote, "as well as
8 compliance restrictions," I want to know what
9 you mean by compliance restrictions and what
10 you're looking at.

11 MS. LACKMAN: Outside the scope,
12 vague, misstates the testimony.

13 A. It involves the individuals' names,
14 dates, birth dates, locations, also different
15 types of IP.

16 Q. What types of IP?

17 MS. LACKMAN: Objection, outside the
18 scope.

19 A. Trademark or copyrighting input.

20 Q. As we confirmed earlier today, you
21 do understand that you're here to testify on
22 behalf of Shutterstock, the company?

23 A. Correct.

24 Q. Looking at the next bullet point,
25 intellectual property, do you see that?

1 A. ZAMBROWSKI

2 A. Yes.

3 Q. What does Shutterstock do to review
4 content for intellectual property issues?

5 MS. LACKMAN: Objection to the
6 extent it calls for published
7 information.

8 Q. Go ahead.

9 A. Should I continue?

10 Q. Your attorney makes objections for
11 the record. Unless she instructs you not to
12 answer, otherwise, as long as you understand
13 the question, provide an answer.

14 A. Could you repeat the question?

15 Q. Sure. Bullet point three refers to
16 intellectual property that's reviewed by
17 Shutterstock before approving third-party
18 contributions to their website. What's done
19 in that regard? What intellectual property
20 issues is Shutterstock looking for in the
21 approval process?

22 MS. LACKMAN: Objection, outside the
23 scope, calls for a legal interpretation.
24 You can answer if you know.

25 A. Shutterstock is looking for any

1 A. ZAMBROWSKI

2 visible trademarks, any types of IP or copy-
3 right trademark within the content itself.

4 Q. So, for example, if a photograph has
5 a big Nike swoosh on a T-shirt in the image,
6 might you reject that because of that
7 potential trademark issue?

8 A. Correct.

9 Q. And if there is a picture of Mickey
10 Mouse in a particular photograph, may you
11 reject that for a copyright issue?

12 A. Correct.

13 Q. And if an uploaded photograph
14 matches in pixelation a previously submitted
15 infringing work, would you reject it on that
16 basis?

17 MS. LACKMAN: Objection, calls for
18 speculation.

19 A. Yes, that is correct.

20 Q. The next bullet, Releases. Are
21 these the releases you were discussing
22 earlier when you were talking about model
23 release issues?

24 A. Correct.

25 Q. So Shutterstock may reject an up-

1 A. ZAMBROWSKI

2 loaded photograph if the individual in the
3 photograph needs to sign a model release but
4 hasn't?

5 A. That's correct.

6 MS. LACKMAN: Objection, calls for a
7 legal interpretation.

8 Q. And you're sometimes part of that
9 process?

10 A. I, personally, am not.

11 Q. So Shutterstock will reach out to
12 uploaders in certain situations or users or
13 downloaders in certain situations and advise
14 them that a photograph cannot be approved as
15 displayed on the site until they obtain a
16 model release for the subject in the
17 photograph; is that correct?

18 MS. LACKMAN: Objection, outside the
19 scope, calls for speculation, calls for a
20 legal interpretation.

21 A. If a subject is rejected for a model
22 release, those objections get automatically
23 sent to the contributor saying their content
24 was rejected for this reason. Outside of
25 that, we do not advise or encourage them to

Page 105

1 A. ZAMBROWSKI

2 upload.

3 Q. And does Shutterstock decide who to
4 send those notices to?

5 MS. LACKMAN: Objection, asked and
6 answered.

7 Q. Let me make it a little more clear.
8 When Shutterstock is reviewing these
9 photographs to determine whether or not a
10 model release is required, is it Shutterstock
11 that determines whether or not a model
12 release is required?

13 MS. LACKMAN: Objection, vague.

14 A. To the best of my personal
15 knowledge, yes.

16 Q. Looking at the next bullet point,
17 Policy, it indicates that there exists,
18 quote, unquote, Shutterstock content
19 policies. What are those?

20 A. As I mentioned, we have reviewer
21 guidelines that have multiple pages in terms
22 of standards and policies that reviewers are
23 educated on.

24 Q. Other than similar content and
25 Spamming, do you recall any of those?

Page 106

1 A. ZAMBROWSKI

2 A. I mentioned this one before, the
3 external buildings, internal buildings,
4 clothing, the branding.

5 Q. What will Shutterstock look for when
6 deciding whether or not to display content
7 based on there being, quote, unquote, similar
8 content?

9 MS. LACKMAN: Objection, vague. To
10 the extent there is legal analysis
11 wrapped up in this, please refrain to
12 discuss. If there isn't, then you can
13 answer.

14 A. It's the content that is taking the
15 same picture but rotating the camera slightly
16 and slightly and it's uploading every single
17 one of those. It is offloading user
18 experience, in my personal opinion.

19 Q. Shutterstock will make that decision
20 at its discretion and reject the content?

21 MS. LACKMAN: Objection, misstates
22 the testimony.

23 A. To the best of my personal
24 knowledge, yes.

25 Q. Does Shutterstock have complete

1 A. ZAMBROWSKI

2 discretion of what gets published on its
3 site?

4 MS. LACKMAN: Objection, calls for a
5 legal interpretation, asked and answered.

6 A. To the best of my personal
7 knowledge, yes, we have a certain threshold
8 that we try to uphold as to keep our
9 contributors more engaged and our customers
10 happy.

11 Q. So when you're looking at content to
12 see if it violates your, quote, standing
13 policy, which would require rejection, what
14 are you looking for?

15 MS. LACKMAN: Objection, outside the
16 scope, calls for speculation.

17 A. That could be a number of things.
18 As I mentioned, taking the same frame and
19 just rotating your camera over and over and
20 uploading five through a hundred of those
21 same images.

22 Q. So folks try to upload Spam content
23 on Shutterstock from time to time, correct?

24 MS. LACKMAN: Objection, vague.

25 A. To the best of my personal

1 A. ZAMBROWSKI

2 knowledge, yes.

3 Q. And Shutterstock will reject that
4 Spam content, correct?

5 A. Correct.

6 Q. That Spam content never shows up on
7 the Shutterstock website, correct?

8 MS. LACKMAN: Objection, calls for
9 speculation.

10 A. Correct.

11 Q. And that holds true for all of the
12 five bullet points that we just discussed, if
13 the submitted contents aren't in line with
14 Shutterstock guidelines, Shutterstock will
15 reject the content, correct?

16 MS. LACKMAN: Objection, calls for
17 speculation.

18 A. To the best of my personal
19 knowledge, yes.

20 Q. Are you aware of Shutterstock's
21 technical and metadata standards?

22 MS. LACKMAN: Objection, vague. Can
23 you refer to a document?

24 Q. Go ahead.

25 A. I am not.